IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 14891 of 2004

Between:

1.Chenchu Bal Reddy, s/o late Linga Reddy, r/o Kuntloor Village, Hayatnagar Mandal, R.R.District.
2.Dr.Khaja Bahauddin Ansari, s/o Khaja Kareemuddin,
r/o H.No.16-3-337, Chanchalguda, Hyderabad.

..... PETITIONERS

AND

1. The Joint Collector, Rangareddy District, 177, Khairtabad, Hyderabad.
2. The Mandal Revenue Officer, Hayatnagar Mandal, Rangareddy District.
3. Shankar Anjaiah, s/o late Shankar Mallaiah,
r/o Pasumamula Village, Hayatnagar Mandal, R.R.District.
4. Shankar Hanmanthu, s/o late Shankar Mallaiah,
r/o Pasumamula Village, Hayatnagar Mandal, R.R.District.
5. Venkata Chary, s/o Chary, r/o H.No.2-19, Saroornagar Mandal, R.R.District.
6. Sarve Lingam, s/o late Sandaiah, r/o Pasumamula Village, Hayatnagar Mandal, R.R.District.
7. Shankar Kistaiah, s/o Shankar Pullaiah, r/o Pratapsingaram, Uppal Mandal, R.R.District.
8. Shankar Katamaiah, s/o late Shankar Pullaiah, r/o Maszidpur Village, Hayatnagar Mandal, Rangareddy District.
9. Shankar Buchamma, w/o Venkataiah, r/o Pasumamula Village, Hayatnagar Mandal, R.R.Dist.

(Respondents 5 to 9 are not necessary parties to this
writ petition as no relief is claimed against them.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly one in the nature of "writ of certiorari" calling for records of the proceeding or order dated 27-3-2004 passed by

the first respondent herein in his proceedings No.D5/7503/96 and be pleased to quash the same as illegal, arbitrary and without jurisdiction violating all constitutional guarantees and norms.

Counsel for the Petitioner: MR.A.ANANTHA REDDY

Counsel for the Respondents 1 & 2: GP FOR REVENUE

Counsel for the Respondents 3 & 4: Mr.P.V.NARAYANA RAO

Counsel for the Respondents 5 TO 9: None appeared

The Court made the following:

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ORDER:

In a petition filed by respondents 3 and 4 before the first respondent (Joint Collector) to correct the entries in the Pahani and Faisal Patti for the year 1977-78, on the ground that they were unauthorisedly tampered with by the then Patwary, first respondent passed a favourable order in case No.D5/7503/1996 dated 27.03.2004. Aggrieved thereby respondents 7 and 8 in the said petition filed this petition.

2. The main contention of the learned counsel for the petitioners is that since respondents 3 and 4 filed the petition before the first respondent under Andhra Pradesh (Telangana Area) Record of Rights in Land Regulation, 1358 Fasli (the Regulation), which was repealed long time back, first respondent was in error in entertaining the said petition and allowing the same and in any event since first respondent based his decision on a report said to have been called for from the

Mandal Revenue Officer, which is not furnished to the petitioners, there is violation of the principles of natural justice and so the impugned order is liable to be set aside. His next contention is that correction of entries made in 1977-78 on a petition filed decades therefrom is erroneous, as such belated petitions should not be entertained. It is contention that since revenue authorities have no right to decide or go into the question of title, when it is well known that entries in revenue records do not confer title, first respondent erred in going into the question of title. He relied on **STATE OF GUJARAT v. PATEL RAGHAVNATH AND OTHERS**, **COMMISSIONER AND SURVEY, SETTLEMENTS AND LAND RECORDS, GOVERNMENT OF A.P. v. G.PADMAVATHI, VELAGAPUDI SATYANARAYANA v. DISTRICT COLLECTOR, NALGONDA, K.G.KRISHNA MURTHY v. BALAPPA, K.SIDDAIAH NAIDU v. DISTRICT COLLECTOR, CHITTOR, GRAFTEK PVT. LTD. v. LINGARAJ MAHAPRAVU BIJE, BHUBANESWAR, V.GOUTHAM RAO v. REVENUE DIVISIONAL OFFICER, JAGTIAL, KARIMNAGAR DISTRICT, N.R.SRINIVAS v. MADDURI MALLAREDDY, B.PUSHPAMMA v. JOINT COLLECTOR, RANGAREDDY DISTRICT** and **D.SATHI REDDY v. COMMISSIONER, PANCHAYAT RAJ** in support of the contentions raised by him.

3. The contention of the learned counsel for respondents
3 and 4 is that since the prayer of respondents 3 and 4 is for correction of entries wrongfully or surreptitiously or fraudulently made, correction can be made at any time after discovering the fraud etc. and so there is no limitation for exercising the power to rectify the records brought into existence by playing fraud as fraud, vitiates everything. He relied on **HABEEB YAHIYA v. GOVERNMENT OF A.P.**, **BACHAN v. KANKAR, SANNEPALLI NAGESWAR RAO v. DISTRICT COLLECTOR, KHAMMAM** and **LAMBADI PEDDA BHADRU v. MOHD. ALI HUSSAIN** and contended that even a look at the entries in the disputed pahani show that the same were tampered with by making the telugu written name Mallayya as Pullayya, and by rounding of some entries and by writing the name Sankaru Venkatayya in a different ink and by adding the names of Yadayya, Narasimha and Pullayya, Sandayya and Narahari in a different ink without any order for such correction.

4. It is no doubt true that by Section 13 of the A.P. Rights in Lands & Pattedari Pass Books Act, 1971 (the Act), the Regulation stood repealed. But, the fact that

respondents 3 and 4 filed the petition under a repealed regulation is of no consequence for the reasons to be mentioned hereinafter. The Act has no application to the proceedings initiated by respondents 3 and 4 before the first respondent, because their prayer is to correct the entries in the Pahanis, which is not a 'record of right' within the meaning of the Act, as the Note to Rule 3 of the Rules framed under the Act clearly lays down-

> "Pahani/Adangal does not constitute the record of rights for the village. It reflects ground position including:
>
> i. the name of the cultivator who actually cultivates the land; and
>
> ii. whether the person in occupation of the land has violated any law and if so, the details of the same."

When the application is for correction of the tampered entries made by a village officer and when it is clear that there is a tampering of the record by the then Patwary, first respondent, a superior revenue official, having supervisory jurisdiction over the village officers, can always order correction of such wrongfully made entries by his subordinate officials. As rightly contended by the learned counsel for the respondents 3 & 4 there is no time limit for correction of such entries, made by playing fraud.

5. Merely because the heading of the petition shows that it is a petition under the Regulation, the same need not be dismissed on the ground of repeal of the Regulation. It is well known that when a petition is entertained by an authority having jurisdiction to entertain the same, the same need not and cannot be rejected merely because the relevant provision is not quoted or wrong or inapplicable provision is quoted. So, the fact that first respondent entertained a petition and ordered correction of the fraudulently made entries, though the petition is filed under the Regulation, which stood repealed, the order impugned need not be set aside.

6. It was unnecessary for the first respondent to go into the question of title, for passing orders in the petition filed by respondents 3 and 4 and so the observations made in the impugned order, relating to title only need be set aside. Since the order of first respondent clearly shows that the Patwary, without any record or orders from

competent authority, tampered with the pahani and faisal patti for 1977-78, first respondent restoring status quo ante i.e. to the original stage before their tampering cannot be assailed either on the ground of limitation or lack of jurisdiction or authority. Non-furnishing of the report of the Mandal Revenue Officer to petitioner is not of any consequence, since first respondent can even suo motu order deletion of the tampered entries in the revenue records.

7. Hence, the order of the first respondent, impugned in this petition, in so far as it relates to correction of the entries in the revenue records i.e. pahani and faisal patti for 1977-78 only is upheld. His observation therein relating to title are set aside. Petition is ordered accordingly. No costs.

(C.Y.Somayajulu, J.)

Date: 20-04-2005

Cvrk

..... REGISTRAR

To

1. The Joint Collector, Rangareddy District, 177, Khairtabad, Hyderabad.

2. The Mandal Revenue Officer, Hayatnagar Mandal, Rangareddy District.

3. 2 copies to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (OUT)

4. 2 CD copies

5. 1 CC to MR.ANANTHA REDDY

6. 1 CC to MR.NARAYANA RAO